

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 3:11-CR-25
)	PHILLIPS/SHIRLEY
DAVID MINER)	

**MOTION TO DISMISS COUNTS TWO AND THREE BECAUSE
DEFENDANT IS NOT A "PERSON" AS DEFINED IN THE STATUTE**

Comes the defendant, David Miner, and moves this Honorable Court for an Order dismissing Counts two and three of the Superseding Indictment in this case because Mr. Miner is not a "person" as defined in 26 U.S.C. § 7203. If Mr. Miner is not a "person" under the definition of that statute, then the statute can not apply to him and must be dismissed.

Respectfully submitted this the 31st day of October, 2011.

FEDERAL DEFENDER SERVICES OF
EASTERN TENNESSEE, INC.

By: s/Kim A. Tollison
Kim A. Tollison
Asst. Federal Community Defender
800 S. Gay Street, Suite 2400
Knoxville, TN 37929
(865) 637-7979
BOPR No. 1756
COUNSEL FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2011, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the court's electronic filing system.

s/Kim A. Tollison

Kim A. Tollison